



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-132736-11]

RIN 1545-BK49

Foreign Tax Credit Splitting Events

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section in this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance relating to a new provision of the Internal Revenue Code (Code) that addresses situations in which foreign income taxes have been separated from the related income. Those regulations are necessary to provide guidance on applying the new statutory provision, which was enacted as part of legislation commonly referred to as the Education Jobs and Medicaid Assistance Act (EJMAA) on August 10, 2010. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **INSERT DATE 90 DAYS AFTER PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-132736-11), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-132736-11), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044, or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-132736-11).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Suzanne M. Walsh, (202) 622-3850; concerning submissions of comments, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

#### **Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR Part 1) which provide rules relating to a new provision of the Code that was enacted as part of EJMAA (Public Law 111-226, 124 Stat. 2389 (2010)) which addresses situations in which foreign income taxes have been separated from the related income. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect taxpayers claiming foreign tax credits.

#### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities,

the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### **Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under “Addresses.” The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at [www.regulations.gov](http://www.regulations.gov) or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

### **Drafting Information**

The principal author of these regulations is Suzanne M. Walsh of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

### **Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### **PART 1--INCOME TAXES**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 1.704-1 is amended as follows:

1. Paragraph (b)(1)(ii)(b)(3) is added.
2. Paragraph (b)(4)(viii)(d)(3) and paragraph (b)(5) Example 24 are revised.

The addition and revisions read as follows:

§1.704-1 Partner's distributive share.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(b) \* \* \*

(3) [The text of the proposed amendments to §1.704-1(b)(1)(ii)(b)(3) is the same as the text of §1.704-1T(b)(1)(ii)(b)(3) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(4) \* \* \*

(viii) \* \* \*

(d) \* \* \*

(3) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(d)(3) is the same as the text of §1.704-1T(b)(4)(viii)(d)(3) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

(5) \* \* \*

Example 24. [The text of the proposed amendments to §1.704-1(b)(5) Example 24 is the same as the text of §§1.704-1T(b)(5) Example 24 published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

Par. 3. Section 1.909-0 is added to read as follows:

§1.909-0 Outline of regulation provisions for section 909.

[The text of proposed §1.909-0 is the same as the text of §1.909-0T published elsewhere in this issue of the **Federal Register**.]

Par. 4. Sections 1.909-1 through 1.909-6 are added to read as follows:

§1.909-1 Definitions and special rules.

[The text of proposed §1.909-1 is the same as the text of §1.909-1T(a) through (e) published elsewhere in this issue of the **Federal Register**.]

§1.909-2 Splitter arrangements.

[The text of proposed §1.909-2 is the same as the text of §1.909-2T(a) through (c) published elsewhere in this issue of the **Federal Register**.]

§1.909-3 Rules regarding related income and split taxes.

[The text of proposed §1.909-3 is the same as the text of §1.909-3T(a) through (c) published elsewhere in this issue of the **Federal Register**.]

§1.909-4 Coordination rules.

[The text of proposed §1.909-4 is the same as the text of §1.909-4T(a) through (b) published elsewhere in this issue of the **Federal Register**.]

§1.909-5 2011 and 2012 Splitter arrangements.

[The text of proposed §1.909-5 is the same as the text of §1.909-5T(a) through (c) published elsewhere in this issue of the **Federal Register**.]

§1.909-6 Pre-2011 foreign tax credit splitting events.

[The text of proposed §1.909-6 is the same as the text of §1.909-6T(a) through (h) published elsewhere in this issue of the **Federal Register**.]

Steven T. Miller

Deputy Commissioner for Services and Enforcement.

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